CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	▼ Force	☐ Discourt.	☐ U.S.
Keyne Jean Villert		Squad #14	201505101	Abuse	O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Precinct:	18 Mo. SOL	EO SOL
Thursday, 06/11/2015 8:40 PM		Inside § 87(2)(b)		121	12/11/2016	12/11/2016
Date/Time CV Reported		CV Reported At:	How CV Reported	: Date/Tir	ne Received at CCRB	
Mon, 06/15/2015 1:27 PM	015 1:27 PM IAB		Phone	Tue, 06/	Tue, 06/23/2015 11:01 AM	
Complainant/Victim	Type	Home Address				
Witness(es)	Home Addı	ress				
Subject Officer(s)	Shield	TaxID	Command			
1. DT2 Robert Myers	02934	916305	001 DET			
2. DT3 Frank Francisco	02987	928312	001 DET			
Officer(s)	Allegation Investigator Recommenda				nmendation	
A.DT2 Robert Myers	Abuse: Det. Robert Myers threatened to damage \$87(2)(b)					
B.DT3 Frank Francisco	s property. Abuse: Det. Frank Francisco entered § 87(2)(b) , in Staten Island.					
C.DT2 Robert Myers	Abuse: Det. Robert Myers entered, in Staten Island.					
D.DT2 Robert Myers	Force: D	et. Robert Myers restri	cted the breathing of	§ 87(2)(b)		

Case Summary

On June 11, 2015, at approximately 8:40 p.m., § 87(2)(b) was inside her apartment, located at § 87(2)(b) in Staten Island, when she heard knocks on her front door. approached the door and allegedly heard an officer, identified via investigation as Det. Robert Myers from the 1st Precinct Detective Squad, instruct her to open the door and threaten to forcibly open it if she refused (Allegation A). The officers were not in possession of an active warrant for \$87(2)(b) opened the door and was informed by Det. Myers and his partner, Det. Frank Francisco, also from the 1st Precinct Detective Squad, that she was to be arrested for \$ 87(2)(b) refused to be arrested by the officers, at which point Det. Francisco allegedly placed his foot inside the doorway of the apartment, thus keeping her from completely closing the door. Det. Myers then allegedly pushed the door open, entered the apartment, grabbed § 87(2)(b) and pushed her onto a nearby couch, where the officers placed her in handcuffs (Allegations B and C). On the couch, Det. Myers allegedly placed his knee against s back, restricting her breathing (**Allegation D**). The officers eventually handcuffed § 87(2)(b) escorted her out of the building, and transported her to the 1st Precinct stationhouse.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation because \$87(2)(b) was arrested as a result of this incident.
- On July 17, 2015, the undersigned investigator submitted a notice of claim inquiry to the New York City Office of the Comptroller. To date, no response has been received and any such response will be added to the case file upon its receipt.

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint involving \$87(2)(b) (See Board Review 04).
- There are no prior substantiated CCRB allegations against Det. Myers or Det. Francisco. Two entry and search of a premise allegations have previously been pled against Det. Myers and were closed as unsubstantiated and complainant uncooperative. § 87(2)(9)

Potential Issue

• Det. Myers retired on July 1, 2015, before the CCRB had the opportunity to interview him about the incident. (See Board Review 01).

Findings and Recommendations

Allegations Not Pleaded

§ 87(2)(9)

§ 87(2)(9)

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Allegation D – Force: Det. Robert Myers restricted the breathing of large alleged that Det. Myers threatened to damage her apartment door, improperly entered her apartment, and restricted her breathing by pressing his knee into her back. Det. Myers retired from the NYPD on July 1, 2015. Allegation B – Abuse of Authority: Det. Frank Francisco entered in Staten Island. It is undisputed that the officers knocked on story is door, that she eventually opened the door, that the officers entered her apartment, and that they handcuffed and arrested her there following a struggle. The NYPD's Monitoring and Analysis Section confirmed there were no active warrants for struggle. The NYPD's Monitoring and Analysis Section confirmed there were no active warrants for the struggle of	Allegation A – Abuse of Authority: Det. Robert Myers threatened to damage 887(2)(b)
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explaned that after his arrival, he saw solene back away from the door, twice retreating	
further into her apartment, at which point the officers made their entry and arrested her. (See	

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Board Review 02) §87(2)(9)			
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§ 87(2)(g)			
It has been long determined the premise, provided that there is proligiven. See People v. Payton, 445 U (See Board Review 08) Additionally, the court held in "voluntary when it is a true act of the unconstrained choice," and that "view implicit, over or subtle." (See Board Moreover, People v. Ashcroft, reaching in and pulling out a defension proximity of his doorway, from a rehimself for public view. (See Board Lastly, the courts have also despremise while awaiting the procure premise, thus preventing the escap and People v. Arnau, 58 N.Y.2d 27 (9) [\$87(2)(9)] Squad: 14	People v. Gonzalez, 3 the will, an unequivocoluntariness is incompared Review 07) 33 N.Y.3d 429 (2006) dant, who voluntarily residence because he ked Review 06) termined that officers ement of a search warne of a perpetrator. See 7, (1982). (See Board 1)	igent circumstances exist or ople v. McBride, 14 N.Y.30 9 N.Y.2d 122 (1976) that coal product of an essentially fatible with official coercions, held that officers were was opened his door and then st nowingly and voluntarily prare allowed to secure, or "frant to preserve the status question of the property of the status of the property of the prop	consent is 1 440 (2010). Onsent is free and a, actual or rranted in cood in close resented eeze," a to of said
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